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# YALE LAW JOURNAL

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## THE RE-ADJUSTMENT OF THE COLLEGIATE TO THE PROFESSIONAL COURSE.

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\*[READ BEFORE THE SECTION OF LEGAL EDUCATION OF THE AMERICAN BAR ASSOCIATION, AUGUST 17, 1898, BY SIMEON E. BALDWIN, LL.D., CHAIRMAN OF THE SECTION, AS THE ANNUAL ADDRESS.]

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There are four stages to a complete education.

The first is open and free by law to every child, in all governments of modern form. It is pursued through the common schools, and stops when enough has been taught to raise him above the condition of illiteracy.

To this primary education may generally be added, in whole or part at public expense, a secondary education which shall fit the student to enter upon the highest intellectual tasks, that the acquisition of learning can involve.

The third stage—that of the higher education—is reached at the door of the university,—the university I mean, as distinguished from the college. Here, either by the aid of the State or of charitable endowments, all branches of human learning are taught by men who have dedicated their lives to following them to the end, and to pushing that end farther and farther into the realm of the unknown. Here each new-comer can select his field, and study in view of the special work for which he wishes to be prepared.

A few years, generally not more than three, are thus passed, and then a man goes forth to his life work, but as a learner still. He has yet to get from the world at large that rounding

off of all his acquirements, that ability to turn them to account; that sense of proportion; that appreciation of the relations of things; that faculty, in a word, of drawing from knowledge, power; which only practical experience can give, and by which practical experience makes the fourth stage of education the best of all.

It is a stage on which one must not enter too late. Irrespective of the social and economic reasons for every man's engaging early in whatever is to be the business of his life, he will do it best when he has not overmuch to unlearn first. There is a certain period after which mere study, unaccompanied by the putting forth of productive energy in contact with the world, makes a man a pedant, turns learning to vanity, and contracts the very soul.

Our American system of legal education contemplates the fulfilment of three at least of the stages which have been mentioned. For the other, that of the university, or its equivalent in this regard, the law school, studies in a lawyer's office may be substituted; though not in the opinion which has been pronounced by this Association, without serious loss.

The limits of primary education are the same for all. The lessons of the world, when the bar is once entered, are to be mastered by each, for himself, and in such period of time as each may need. It is the relation between secondary and university or professional education, alone, that is subject to variation by rule.

The conditions which should, and which eventually must, determine this relation have been essentially changed in the United States since the Civil War. The progress of the various sciences has compelled the prolongation of every course of professional study. The leading medical, engineering and mining schools now require four years of attendance; the leading law-schools and divinity schools, three. For this there are two reasons. There is more that must be taught, and whatever is taught is taught better. Instruction is given on more scientific methods. Its scope has been widened. Its aims are higher.

In the profession of the law, the multiplication of reports has been at once a cause and an effect of the development of the science of jurisprudence. These press upon the American student with a crushing weight. Citizen of a country in which there are nearly fifty different separate sovereignties, each with its law-making power, and its law-construing power, he must be trained as never legal scholar was before, to the use

of libraries; to the balancing and comparison of judicial decisions; to the rapid glance that commands the situation, the sound choice between conflicting authorities; and above all, to the power to penetrate through the mazes of case law to those principles which they often illustrate and often obscure.

Concerning the value of cases as a means of legal education, we may not all agree. As to the method of their use, there are those who prefer to ask the student to trace through them for himself, in long succession, the history of legal rules; and others who would rather turn his attention to those which best state what those rules now are. But that their increasing number, in connection with the general advance in commerce and manufacture, has involved fundamental changes in the previous system of law-school instruction, is a proposition from which none will dissent. The business interests with which the bar must deal have been doubled in magnitude and in variety during the last half of the century now nearing its close, and with them has been doubled the complexity of our social life.

Meanwhile a marked change has been wrought in our system of secondary education. We have never, in America, separated this sharply from the work of the university. Until recently, we could not; and we have not yet put our new opportunities to use.

Secondary education in this country began with the foundation of Harvard College. That was patterned after one of those, then and still characteristic of the English university, —the frame-work that of a great boarding school for half-grown boys. The first president of Harvard was a young graduate of Cambridge University, where he belonged to Magdalen College. The course of study there is one of three years of three terms each; students being classed as Freshmen, Junior Sophisters, and Senior Sophisters. Harvard adopted the same plan, and the same class names. Fifteen years later her course was lengthened to four years, and the word "Sophomore" (which had been a term of student slang at Cambridge), added to the English language as descriptive of college students in their second year.

Yale did the same thing; making her course one of three years until 1710, but styling the middle year students Sophimores, instead of Junior Sophisters.\* After 1710, the regular

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\* 1 Dexter's Yale Biographies and Annals, 18.

course was lengthened to four years; but, to quote from the College laws,\*

"for y<sup>e</sup> special encouragement of students in their Diligence it is ordered that if a student at y<sup>e</sup> end of three years Continuance in y<sup>e</sup> school shall in his probation manifest expertness in Reading y<sup>e</sup> Hebrew into Greek and into latin and Grammatically Resolving y<sup>e</sup> said languages and in answering such questions in their systems of logick and in y<sup>e</sup> principles of naturall phylosophy and metaphisicks as y<sup>e</sup> Rector or any of y<sup>e</sup> trustees present att y<sup>e</sup> said probation shall see Cause to propose to him, and be approved by y<sup>e</sup> trustees att Commehcement may Receive a Diaploma for his first Degree."

In the next revision of the college statutes, this provision for the better scholars was struck out, and has never reappeared. From the early part of the eighteenth century to the early part of the nineteenth there was, I believe, no American college which did not map out its course of instruction into four set years for four set classes.

Then came Jefferson's great experiment in Virginia. He sought to re-fashion our whole collegiate system, and bring it into the lines of the Continental, instead of the English university. From that day to this the University of Virginia has granted her honors to those who deserved them by their attainments, not by the length of their residence at Charlottesville.† The French degree of bachelor of letters is given to those who successfully complete the studies in a certain number of her twelve schools of arts and science: the English degree of bachelor of arts to those who to this add proficiency in certain other schools. Not over three years need be thus occupied by a diligent and capable student. Those who come to the work with insufficient preparation, or pay more attention to the social than to the intellectual life of the place, may take as many as they please. Nor is a diploma held up as the great object and end to be attained. A large proportion of the students in the collegiate department receive none. Their attention is directed to getting an education, rather than to getting a label to certify that they have got it.

In 1842, President Wayland of Brown University, startled the slumbering circles of academic learning at the North, by the publication of a book announcing his adhesion to the Virginia plan. His views encountered strong opposition, but at

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\* Ibid, 350.

† William and Mary College also gives the B.A. degree, after three years study, if proficiency is shown in a certain number of studies. The College Book, p. 60.

last, in 1850, they were put to the test of actual trial, under his own supervision, and the degree of bachelor of arts offered to all who should show themselves proficient in nine courses, each running through a year. It was thought that three such courses could be taken in one year, but those who preferred were to be allowed to make the nine extend over four years, unless the Faculty thought it, in any particular case, a waste of time. The immediate result was that while the number of students in the college had decreased largely during the fifteen years preceding, running down from 195 in 1835 to 150 in 1849, it rose to 195 again in 1851, and to 283 in 1854.

The retirement of Dr. Wayland from the presidency in 1855, was soon followed by a return to the old system of a four years' course, largely of prescribed studies. The experience of Brown, however, was complicated by its perhaps premature demand for the extension of freedom of election between studies, and by the absence there of anything in the nature of professional or university schools. The latter fact may also serve in part to account for another of the positions taken by President Wayland in 1842, that the standard of admission to our colleges was too low. The age generally required for admission was then fourteen. He proposed to keep the boys two or three years longer at the academy, and to introduce them when they came to college to studies of a wider range and higher character.\*

Here his influence proved more lasting. During the last half century the required age for a Freshman has been generally raised to fifteen, and in the older and larger colleges the average age in fact is now eighteen or nineteen. The courses of study have also been universally multiplied and enlarged. Harvard was the leader in this change. In 1877 President Eliot stated officially that her examinations had then become such as to require from applicants for admission to her academic department a full year of previous study, beyond the period demanded by those established in any other American college.†

Side by side with these changes, and others of hardly less moment in our collegiate system, has come a development of the professional school into something essentially and radically different from what it was at the beginning of the century, or when Wayland wrote.

A new thing has, indeed, been evolved—the American University. The college, with its plan of secondary education, is

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\* Wayland on the Collegiate System of the United States, 107

† The College Book, 15.

a part of it; but it is being steadily relegated to a more and more subordinate position. Its leading teachers find their most congenial work in fields where they can go hand in hand with the advanced student, as common learners from the same sources. The graduate schools in philosophy and the arts are overshadowing those of the undergraduate years. The professional schools are often found to be calling more out of a man, and making more out of a man, than his college instruction ever could or did. But all this new university education takes time; and time out of the best years of active life is something to be dealt out with a sparing hand.

The American College—forerunner and father of the American University—dates from a period when professional schools were practically unknown in English speaking lands. Its aim, we must always recollect, was to give that “liberal education” which frees and leads forth the mind from the narrow circles of local environment; but not to furnish it with technical knowledge of any particular art. It took the boy of fourteen and returned him to his parents at eighteen, to begin the serious work of life under other auspices. He had been taught by this time about as much as the collegian of the present generation has learned at the end of his Sophomore year; less of physics but more of grammar; studying as a Freshman and Sophomore much that the modern student has acquired at school. Next might come two or three years of quiet reading in a country study or office, and then by twenty-one he was ready to enter one of the learned professions.

A couple of centuries have revolutionized for us almost everything else in education but the length of the College course. It was four years in the seventeenth century, and it is four years still, on the verge of the twentieth. Not because it now takes four years to teach what was then taught. Half of that has been relegated to the preparatory school, and the other half by the aid of better text-books and methods can be far more quickly learned. It is because every student is now taken, in a superficial way, over the whole field of human knowledge, and each is invited to make himself closely acquainted with some particular division of it. For the *trivium* and *quadrivium* we have tried to substitute a rapid view of the *omne scibile*. We try to make our young men universal scholars before they can begin to be professional scholars. We try to make them specialists in some science before they are taught to be specialists in any art.

The result is that in our larger colleges and universities, the average age of the Freshman is what, in the days of our

great-grandfathers, was the average age of their graduates; and both in the larger and the smaller it is greater by two full years than it was even half a century ago.\* The young man enters college at nineteen, and leaves it at twenty-three, to commence perhaps a course of professional study, demanding three or four years more. Any system of education which requires twenty-six years of the ordinary man, as a preparation for one of the ordinary professions, is radically wrong. Life is not long enough to justify such an expenditure of time. The world is not rich enough to pay what it costs. We may even say that the world is too wise not to know that, after a certain point has been attained, its own rough lessons are worth more than anything that can be got from books and lectures.

At twenty-three a man ought to be among the bread-winners. At twenty-six he should be, not entering a profession, but reaping its rewards from an assured position in the community.

Which part of its training shall the American university be ready to abridge, to reach this end? The tendency has been to scant the professional courses. Few can give four years to the College, and then three or four more to the superior schools to which it leads the way. It requires more means, more patience, and more time than the ordinary man has to bestow.

The new catechism of the American university comes very close to teaching that the chief end of life is to get an education. It might not be so far wrong if it declared that the chief end of life was to use an education.

Education leads forth the mind to an acquaintance with three kinds of things: acts, facts, and the relations of these to each other. It is these relations which it is most difficult to master. To know them and to use that knowledge with effect is the life work of the professional man. He must address himself to his task when young enough to give three full years at least to the close study of his chosen art, before he begins to essay its practice. It is the inability of the college graduate to do this, in ordinary cases, which keeps so many of them out of the professional schools and—what is worse—which keeps so many professional students either from entering on or from completing a collegiate course.

Andrew Carnegie said, some years ago: "The total absence of the college graduate in every department of affairs should

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\*President Charles Kendall Adams, in Johnson's *Cyclopedia* (1893), title *Colleges*.



be deeply weighed. I have inquired and searched everywhere in all quarters, but find scarcely a trace of him."

This would have less even of the semblance of truth, if the college graduate were, as he ought to be, born into the world one year earlier.

Three years is all that has for centuries been required in either of the great English universities (which are really only clusters of colleges), for the bachelor's degree.\* It is the limit of the German university for the doctorate. It is enough, preceded by the American high school, to give our boys as much of a general education as is good for most of them.

There is a certain top-heaviness that is apt to amuse the world in the average Senior, when he gives his views on topics of political economy, or social science, or the philosophy of history. He knows the latest words of the best men, but it is seldom that he has got hold of the relations of things, to which they must be adjusted. He is wise overmuch. He has lived too long in an ideal world, and as part of a factitious community, detached from the actualities of everyday life. To these his professional studies will bring him back. Their comingling of science and art, theory and practice, is what he often needs to restore his life to a just equilibrium.

To such a man—neither the first, nor the lowest scholar in his class—it would be a positive gain to cut off the fourth year from his College course, if by this he were to gain another year in the professional school. There his speculations are always being corrected by application to concrete things, and everything is tested by constant contact with the common facts of daily experience. His business now is to learn for the sake of what he learns; and twenty years of learning for the sake of discipline, should be enough to teach him how to begin work in earnest.

It has been our American system to fix the age below which a boy cannot enter college; and to take no thought as to the best age for him to leave it. Might it not be wiser to begin at the other end, and ask, first, what is the best age for the young man to stop learning, and begin earning? I venture to say that he should stop making it his main business to learn, by three and twenty. That he should spend three years in professional study, if he is to enter a profession, is now generally

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\* Under Queen Elizabeth the course was one of four years. Malden on the Origin of Universities, 124.

agreed. He should leave college then by twenty;\* nor would most parents wish him to enter it before seventeen. A three years' course for all would make this possible. So would a four years' course of which the last offered such opportunities for the prosecution of professional studies as would be equal to those afforded in a professional school. In a university where this could be accomplished, there would be no break in the continuity of that social life which gives to college days so great a charm. Instead of pursuing other elective courses, Seniors proposing to follow the law, could devote themselves to political science, general jurisprudence, and constitutional history; those looking to divinity could give their time to moral philosophy, psychology, Hebrew and Hebrew literature; those contemplating the practice of medicine could take up chemistry, biology and botany.

A year thus spend might either be the basis, as in the case of the "Law and History Tripos" at Cambridge University, of an election between taking a bachelor's degree in arts or in the special profession to be entered upon; or it might be allowed to abridge the term of professional study to two years. This last method is, no doubt, more easily adjustable to existing conditions, than to cut down the ordinary college course, for all, from four years to three. It reaches substantially the same result as respects those entering the "learned" professions, and has been virtually adopted for them at Yale and Columbia. But it still leaves the college graduate, who proposes to engage in a business career, to enter it a year too late. It is hard for a boy of twenty to descend from the altitude of Senior year to the drudgery of a petty clerkship, or the dirt of a machine shop; but it is far harder to a man of twenty-two.

So far as concerns those whose purpose it is to devote their lives to abstract studies, or to teaching, the abridgment of the undergraduate course would simply mean better opportunities for a graduate course. Few young men with these aims now deem their education completed until it has led up to the degree of Master of Arts or Doctor of Philosophy, and they would get it at about the same age, under either system.

A third expedient is to allow those who can to complete the number of courses required for the bachelor's degree in three

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\* This was the age when the course of instruction was completed in the public academies, corresponding to our colleges, under the Roman empire. Newman's Historical Sketches, III, 101.

years, and then give them leave of absence during Senior year, so that they can devote it entirely to work in a professional school. This has for some years been the Harvard plan.

Of these three methods of reducing the term of University residence, the first, it seems to me, is the wisest as well as the simplest.

Professional instruction is best given by those who belong to the profession in question; and they also can best arrange its proper order. If a law student forms his first conceptions of law by studying general jurisprudence, constitutional history, and political science, under the lead of collegiate teachers, he is in great danger of feeling later that he began at the wrong end. Theoretically, to introduce him to his profession from its scientific side seems natural and right. Practically, most law schools have found it a blunder, even for the brighter men. The multiplication table comes before the calculus.

The third plan benefits only a few, and those the ones who would succeed under any system of instruction. The real question is what to do for the average man, and how to save a year more of life in the world, for him.

The three years' college course and the four years' college course have both been on trial at Yale, side by side, for more than forty years. "Yale College" proper has required four years of residence as the condition of a degree in arts. The Sheffield Scientific School of Yale University has given that of bachelor of philosophy after three years.

For entrance to either the student must have a fair acquaintance with the Latin language, and the absence of instruction in Greek is almost the only thing that makes the degree in philosophy mean less than that in arts.

The graduate of the Sheffield Scientific School is younger by one or two years than the graduate of "Yale College" proper; but his training fits him better to enter a Medical School; nearly as well to enter a Law School; and far better to begin a course of instruction in engineering or any of the applications of the physical sciences to the industrial arts.

The number of those who are graduated from any such institutions is but an imperfect indication of how they are regarded by those having sons to educate; but it is on the whole as satisfactory as anything in the line of statistics can furnish.

The Sheffield Scientific School sent out its first graduates in 1852, and the whole number to the close of the year 1857, numbered less than fifty. From that time on the comparative

figures for this branch of Yale, and for the original academic college are as follows:

	Bachelors of Arts.	Bachelors of Philosophy.
1858-1867	1,051	89
1868-1877	1,142	351
1878-1887	1,343	482
1888-1897	1,970	1,144

In other words (using round numbers) the three years' course attracted but one-eleventh as many as the four years' course for the first ten years; nearly a third as many in the next decade; more than a third as many in that following; and considerably more than half in that which closed in 1897.

This steady and rapid march of the Scientific School towards a position of equality in numbers is not, I think, attributable to any superiority in the quality or method of instruction. It certainly is not due to any greater attractiveness in the social life of the students, though it has been accompanied by a growing and deepening sentiment of loyalty and love towards "Sheff.;" for it is an institution with no college dormitories, no college campus, and few independent traditions and usages of its own. The reason lies on the surface. Three years of work is all that is demanded as the condition of a degree. We Americans spend time and money freely where we believe it to be necessary; grudgingly when it seems called for by tradition rather than by reason.

We have begun to see that the American university is doing something that no European university has ever done.

It is furnishing both secondary and professional education. It is instructing both boys and men.

We have drifted into this position insensibly almost, and, I cannot but think, without fully appreciating all the dangers which it risks, all the results which it entails.

To make secondary education worthy of a place in a university scheme, we have advanced it beyond its proper limits. We require of all our College students in their fourth year, and often in their third, the pursuit of branches of knowledge, or the adoption of lines of research, which the experience of the world hitherto has reserved for the few who are seeking the highest degrees in the republic of letters. Hence it is, and for these purposes, that we have trenched on the years of life which that same experience has set apart for other work.

Practically, we have added or sought to add half the German University course to all the English University course

and part of that of the public schools which precede it; and called this a College education. Eton, Harrow, Winchester, and Rugby are more like the German gymnasium than the American high school. We take our boys over a wider range of subjects, but do not push them as far on any given line. Freshman year in College must be added, and perhaps part of Sophomore year, to put them where the English or German is, when he enters the university.

In theory and aim, the English and Continental universities originally were not dissimilar. All were alike planned to teach those who had already received a good secondary education whatever men might desire to learn, as a preparation for the work of life. One might thus study to be a scholar, a lawyer, a divine, a physician, or a man of affairs. Each was free to choose according to his needs.

The peculiar centralizing tendencies in English life, the nature of their aristocracy, and the remoteness of Oxford and Cambridge from the capital and metropolis of the kingdom, soon confined university education there within narrower limits. While they professed to teach the *omne scibile*, the professional "schools" until recent days were never anything but names. The three years which were spent at the university enlarged the horizon of the English country gentleman, but may be said to have disciplined the mind without informing it. Practically it was deemed unworthy of a seat of learning to undertake to give men any direct instruction in the art of earning their daily bread. This was to be picked up afterwards, as best might be, in attendance at the inns of Court, or at the expense of patients or parishioners.

The practice of medicine was for centuries regarded as something pertaining to the clergy. Those who pursued it were generally monks, and must always have a license from the bishop of the diocese. With the Reformation came the establishment of a College of Physicians and Surgeons, but it was founded at London, and although its first president, Linacre, had been an Oxford professor, it had no connection with university life.

To learn the science of law or of medicine, the student must leave the university, and go to London. The science of theology, it was unnecessary to acquire, in order to become a parish priest. Whoever could procure the presentation to a benefice, if not of scandalous life, was reasonably sure of approval by the bishop.

Under such conditions the English universities became, and have to this day remained, places for acquiring a liberal educa-

tion of a general character, but not for pursuing professional studies.

From their graduates came the founders of the earlier American colleges, and these, as has been said, were naturally modelled, as far as might be, upon a similar plan. A hundred years later, the professional school began to take shape here, and to appear as a graft upon the college stock. At Philadelphia, the first American medical school was thus set up in 1764, in connection with the college founded by Franklin, and after its incorporation with the University of Pennsylvania, the earliest course of university law lectures in the United States was delivered there by James Wilson, in 1790. At Harvard, Columbia and Yale similar establishments slowly followed, and during the last quarter of a century they have been multiplied over the country with marvelous rapidity. Particularly is it true of the law school. Of such institutions, as a distinct and complete department of a college or university, the first came into existence at Harvard in 1817, and the second at Yale in 1824. In 1897, there were seventy-eight American law schools scattered over thirty-two states, with over 10,000 students in attendance. At a steadily increasing number of them, a course of study is required covering three academic years; and at a few graduates may receive advanced instruction, for a period of one or two years more, and the degree is awarded of doctor of laws or doctor of civil law.

The further study of philosophy and the arts by college graduates has also, during the last half century, been promoted, at many of our universities; and there is no science in which a doctorate cannot now be sought, as an evidence of successful application. To pave the way for graduate instruction of this nature, undergraduate instruction has naturally been made more extensive, and so more protracted.

It would seem to be the birthright of our age not to increase but to cut down the ancient term of a collegiate education. Carlyle once said that what brought universities into existence was the want of books.\* In those days men who would learn a science of whatever kind must do it by listening to the spoken word, and make their own books by laboriously writing out what fell from the lips of the master. A year might then be taken to gain what the art of printing soon made it possible to acquire in a month.

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\*History of Literature, 106.

The German Professors still seem to ignore the existence of the text-book. They are generally content to teach the ordinary student by the lifeless and time-wasting method of reading or rather dictating a written lecture; and would be startled should one of them interpose a question, however apt. The American teacher, who, so far as he can venture, makes a *seminar* of every class, has no such excuse for multiplying his hours of instruction. He is glad that he can refer to works in which what he might otherwise have said has been better said; and that by reading them first his pupils can best come to deal with the questions which he may bring to their particular attention, and make the main subject of his own remarks.

It is, I believe, largely this difference in method between the German and the American and French Universities (for the French Professor talks to his class instead of reading to them), that has excluded the baccalaureate degree from German use. The certificate granted at the close of the gymnasium or real-school course is not a diploma. Such honors are reserved to crown the higher education, alone.

The French have dealt more wisely with this question. The bachelor of letters, under their system of public education, receives his degree at substantially the same stage of progress reached by the German student, when he leaves the gymnasium. Two years more at the university is required by the ordinary man to fit him to apply for the admission to the ranks of the licentiates. He is then qualified to receive the doctorate in letters, as soon as he is able to present a proper thesis, and defend it upon a day set for its public discussion. This he may prepare wherever and whenever it suits his convenience. He may continue his residence and studies at the university, if he chooses, or he may pursue them in any other place where business or convenience may call him. His university course, so far as residence and examinations, need not extend a day beyond two years.\* The same period of residence was fixed in 1897, for those desiring the degree of doctor of the University of Paris.

There must be some point of life at which, to the average youth, the transition can best be made from the first to the second stage of secondary education,—from its simpler to its severer studies. The age at which one could first gain admission to our American college was for more than two centuries

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\* Am. Hist. Review, III, 422.

fourteen. During the last quarter of a century it has by some of them been raised to fifteen. But the great majority delay their entrance until they are two, three, or four years older. The result is that they learn at school much of what they could better learn at college.

Nature herself has indicated to us the period when the higher stage of secondary education can be best begun. It is that which follows close upon the age of puberty. The youth can then acquire, in one year, more than two could have imparted to him at an earlier age. The world is unfolded to him from a new point of view. This is the time when he should be under the best masters and furnished with the best opportunities to seize every familiar truth in its new dress and know it for what it is. It is during these bright days that he should enter on his college life, and, with a mind moving from a new center of being, form those views of things by which his future course will be directed. To linger at school, surrounded by the associations and the associates of childhood, when one is able to begin the work of a man, is a waste of energy. It is not merely procrastination, but repression.

The greatest lessons man has to learn are not those of grammar and mathematics, of modern or of ancient science, except as these all help to make him know himself and his relations to the whole order of the universe.

An Eastern fable tells us that when man was created Satan appeared before the Lord and besought that he might be permitted to endow this new being with four things. The archangel Michael preferred a like request. Each was told to prepare his list in secret, and submit it for approval. The devil's was read first. It contained four words: "Women; wine; work; death." The archangel's was then opened. It was the same.

This is the list which the boy first begins to understand as he feels himself expanding into the man. The college is the place to read it in; not, indeed, to read it through; but to read into it and between its lines, the lessons of the interdependence of humanity; of discrimination in choice; of moderation in enjoyment; of regard for others' rights; of patient continuance in well doing; of the oneness of time and eternity.

The college receives a youth into a new home in a larger family. It is right in saying that it will admit Freshmen at fifteen. It is wrong in discouraging their coming until a much later age, as it practically does by demanding a preliminary education covering so wide a field. At sixteen or seventeen



the average boy ought to be ready for the average college. Every unnecessary year at the preparatory school means an unnecessary year in the college course, and may mean the loss of a necessary year in a professional course.

For our own profession, we know that three years of study is a practical necessity for the ordinary man. Three years were given, and required by the courts, more generally in the eighteenth century than they have been, until recent years, in the nineteenth. There was time for it, when the college sent out its graduates at eighteen or nineteen.

Nor was the legal education of those days less fitted than that of this to produce great men. It was simpler, but its roots ran deep. There was, indeed, no wilderness of case law through which the student must be led. Of American reports in 1798, but five volumes\* had been published. Of English, since the close of the Year Books, there had been between two and three hundred; but, probably, not half of these had ever crossed the Atlantic, and hardly thirty were in what might be called familiar use. On the other hand, the young lawyer was expected to know something of the general principles of public law, and to approach jurisprudence in a spirit of scientific inquiry. He was taught general views, rather than particular rules. He was encouraged to strike out boldly and reason for himself; to make precedents rather than to follow them. Judicial decisions, in fact, were forgotten almost as soon as they were pronounced. They were like verdicts. The cause was determined; and, after a few years, only the parties recollected the event. Kent became Chancellor of New York in 1814. He had had two predecessors, but during his term of office of nine years, not one of their decisions was ever cited before him, as an authority.†

The tendency of legal education to day, if I am not mistaken, is more and more in the direction of enforcing principles and developing the power of applying them. It is our misfortune that we must also dwell so long on the study of the law reports. The time may be well spent where the case shows how the science of jurisprudence may be and has been extended at a single effort by strength of argument and discrimination in judgment. It is to be grudgingly accorded to the mere search for precedent as precedent, or the minute hunt of the antiquary for the random word hastily dropped by some Judge of other

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\* 1 and 2 Dallas; Kirby; 1 Root; N. Chipman.

† Memoir and Letters of James Kent, p. 157.

days, on which abler successors have built up some now acknowledged rule of decision.

When Kent read law in a country office, Grotius and Puffendorf were among the authors most consulted, and Hale's "History of the Common Law," Blackstone's "Commentaries" and Hume's "History of England" he made each the subject of an abridgment.\* It is the indefatigable scholar only of whom such things can be expected; but the ordinary man can and must be taught something of public law and constitutional development.

The very fact that most of our American Law Schools are departments of universities demands this of them. If they belong to a family of scholars, they must do no discredit to their position. The professional school was but slowly welcomed in academic circles. No degrees in the Faculty of Law were conferred at Yale until nearly twenty years after the organization of her Law School; none in divinity until her Theological Department had been in successful operation for more than forty. Not until last year did Andover Theological Seminary receive the power to grant degrees to its graduates, though it had been a pioneer in theological instruction, and conspicuous in that field throughout the country for three-quarters of a century. No American Divinity School, I believe, has yet conferred the doctor's degree in course, though last year the purpose to offer it was announced by one.

There has been a certain feeling among academic scholars that to study a profession was only learning a trade. This sentiment is rapidly disappearing. As the scientific side of the professional course receives greater attention, it is seen to justify itself by the discipline it gives, not less than by the knowledge it imparts.

In earlier ages, the professional school was an acknowledged seat of learning. The first great University in history, that of Bologna, was but a cluster of professional schools, led and dominated by that of law. They were known as *Scholae Majores*, in distinction from the *Scholae Minores*, in which were taught simply the seven liberal arts. Each body of students, associated in the same line of inquiry, was styled a *universitas*, and much resembled the *collegium* or *universitas* of Roman society composed of fellow-workers engaged in the same pursuit and incorporated for the advancement of their common welfare. Modern education began when Irnerius, about the opening of the twelfth century, commenced his lectures on the *Corpus Juris* at

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\* Memoirs and Letters of James Kent, p. 19.

Bologna. At Montpelier there arose two schools, in the same century, one of medicine and one of Civil and Canon Law, out of which in the next a University was organized under a papal charter.

The unsystematic texture of the Common Law was less friendly to its pursuit as a scholastic exercise. The absence of English law schools in modern times left America no guide in this direction. What she has done she has done for herself, slowly, painfully, with hesitating and uncertain step.

Let us frankly confess that during the middle half of this century it was but a cheap education that was offered by the American law school. Harvard, in 1829, sought to raise its standard by requiring five years of study for the bachelor's degree from all who were not graduates of colleges, and three from those who were; but, after a vain struggle of ten years against the tide, the period was reduced to eighteen months.

There were no examinations for entrance, and none for graduation. A nominal course of two years was generally announced, but the studies were commonly so arranged that while the incoming class of every alternate year could follow them in due order from the beginning to the end, the next succeeding class began them in the middle, entering at first on those properly belonging to the second year.

In the days of this ill-ordered scheme of instruction it is no wonder that a legal education was deemed, in academic circles, to be something totally apart from a liberal education. But we of the American bar have a right to insist now, that altered conditions shall be recognized and the collegiate system readjusted to meet them. It must be fitted to its environment,—the schools to which it sends, as well as to the schools from which it draws.

It must seek this for its own sake. It has been the common belief that the number of Americans receiving a collegiate education has steadily decreased when compared to the growth of population.\* Recent statistics compiled by the Commissioner of Education of the United States disprove this. But they also show that professional and graduate students have multiplied much more rapidly than college students. Of the latter there are now twice as many to each million of our population as in 1872, but of the former there are nearly three times as many.†

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\* Bush's Hist. of Higher Education in Mass., 19.

† See Paper of Hon. William T. Harris, LL.D., on the Relations of the Higher Education to the Community at large, in Journal of Am. Social Science Association for 1898.

The country has grown immeasurably in riches since 1872. The losses of the civil war have been repaired. There has been expansion of industrial activity in every direction. Why do so many of our young men pass by the college and flock to professional schools? It is less because they have not the means, than because they have not the time which the college demands.

We who are interested in advancing the standards of the professions must seek this readjustment no less for their sake. Less than twenty per cent. of our American law students are college graduates. They come to their work unaided by the strenuous discipline and academic spirit which are the peculiar fruit of college life. A reduction of the college course to three years would give its benefits to many of these men, and particularly to those who need it most, I mean, the youngest.

Why is this change not made?

Tradition is one of the strongest forces in any system of society which has a long history behind it. Such a tradition has deeply affected the American theory of liberal education. It is that the only liberal education is a general education,—an education in universals, with no special purpose in view,—and that this cannot be given to any one in less than four years' time.

Voltaire, in referring to the great work which had been wrought in the world by Montesquieu's *Esprit des Lois*, said that Man had lost his title-deeds, and Montesquieu had found and restored them. Would that some such epoch-making book might come with the coming century, to recover for American youth their long-lost title to be educated for a purpose, to be educated while they are in youth, and as they enter on manhood to enter also on its individual responsibilities, each in his individual career.

The corporations which control our colleges are naturally and properly bodies of slow movement. They are commonly dominated by the president, and he by the policy of his predecessors. Jeremy Bentham said that he did not like Boards: they always made fences. Behind their shelter, a blind adherence to traditional policy intrenches itself unseen. It is generally fortified by the sentiment of the older members of the faculty of the institution. Their motto is apt to be *Quæta non moveri*. Such is the case with regard to the four years' course.

The college, indeed, is essentially a stationary body. The fundamental instruction of youth, in every age, is much the same. Let me quote from one who has contrasted with that keen faculty of discrimination of which he was so great a mas-

ter, the inherent characteristics of college and university. Cardinal Newman once wrote:

"The University is for theology, law and medicine, for natural history, for physical science, and for the sciences generally, and their promulgation; the college is for the formation of character, intellectual and moral, for the cultivation of the mind, for the improvement of the individual, for the study of literature, for the classics, and those rudimental sciences which strengthen and sharpen the intellect. The university being the element of advance, will fail in making good its ground as it goes; the college, from its conservative tendencies, will be sure to go back, because it does not go forward."\*

Nor is the general current of academic opinion controlled alone by a disrelish for innovations. To surrender Senior year, or turn it into something very different, seems, and perhaps is, a lowering of college aims. These have come to be, in the minds of many of their teachers, to produce great scholars,—to develop the best minds to the highest point. They take little satisfaction in the moderate improvement of which the average man or the dull student is susceptible. It is hardly thought worth while to encourage him to come to college at all. "There are many," said a Professor, of this way of thinking, in one of our largest universities, not long since, at a gathering of instructors at which the subject was under discussion, "who enter college that are unfitted by nature to appreciate what it gives. I would not make a college education so cheap that everybody could have it. I would not give a ten thousand dollar education to a five hundred dollar man."

There is, again, naturally and necessarily, a strong vested interest opposed to any change, to be found in the men whose places a change would endanger.

A three years' college course requires only three-fourths as many teachers as a four years' course. To cut off the superfluous studies means to cut off a corresponding number of superfluous professors, or to transfer them to graduate classes. In colleges which form parts of universities, such a transfer could be readily effected; but as graduate students in Philosophy and the Arts are comparatively few, there would be a serious difficulty in meeting the cost of instruction.

Inevitably such a change of system would bring distress to many homes. There would be a weeding out of the least successful; often, too, a lopping off of the most scholarly, in the

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\* Historical Sketches, III, 228.

College Faculty. Old men who had spent their lives in the service of an institution with which their very being had become identified, would be turned adrift, or relegated to distasteful work of elementary instruction.

It is probable, however, that under the system of a three years' course, the number of students would be considerably increased, so that its worst consequence to the Faculty would be to confine them to a narrower round of intellectual exercise. Many a young man would be willing to face the shorter struggle with poverty, whom the added burden of a fourth year, which his instinct tells him is unnecessary, now deters.

The necessity of the readjustment which has been the subject of this address has been for fifteen years strongly urged by President Eliot, of Harvard. The average age of graduation from Harvard College had risen by 1883 to twenty-two years and seven months.\* The professional schools of the university were contemplating a prolongation of their courses of study, and the President in his annual report to the corporation, indicated his opinion that the college must meet them half way. In 1886, the Medical and Law Faculties joined in the recommendation that under certain conditions the first year's study in each of these schools might be pursued by a College Senior as an equivalent for such branches of collegiate instruction as he might be otherwise required to elect. The corporation referred the matter to the College Faculty for their opinion, and four years later that body, not without strong opposition from a large minority, replied that the courses required as a condition of the degree of bachelor of arts might safely be reduced to sixteen. Over fourteen of these are commonly completed by the close of Junior year. Four more had been previously prescribed for Senior year, and the proposed retrenchment would have cut away half of these, and so put it in the power of the better men to fit themselves within three years for their final examinations.

The corporation agreed to this proposal, but it was defeated the next year by the failure of the board of overseers to concur, and has never been revived.

The consideration of this problem has been complicated at Harvard, and is more or less affected everywhere, by the gradual extension in recent years of the elective system. If the college student is to study only what he prefers, he ought

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\* Harvard Graduates' Magazine, I, 53.

to be of an age to choose wisely. It would be by no means an unmixed evil if there were a certain retrogression towards the older methods of the fixed *curriculum*. They came, no doubt, from the day when the college was considered as a higher kind of boarding school, under the personal care of a master, with a common table and general dormitory, and where the pupils were under a strict police supervision and forced even to religious worship by compulsion. But is not the modern American College still conducted on the foundation principle of the academic family, with its daily watch and ward? Do not its first two years still everywhere belong to those who have not yet attained full manhood? If at twenty-one he can pick his way intelligently, does it follow that he can at nineteen? The State does not think so, and we of the bar or bench know that the law of infancy needs no justification.

At the risk of wearying your patience, let me restate the whole problem, and the possible modes of its solution.

Within the past quarter of a century, the professional course in the United States has been lengthened by a full year. It was a necessary extension, which must and will be retained.

Within the same period, the preparatory school has been forced by additions to the requirements for admission to college to add at least a year to its course of study; thus giving its boys most or all of what they formerly received as College Freshmen.

Meanwhile the four years' term for the college course remains unabridged, and the Senior class receives instruction mainly in branches formerly taught to resident graduates.

The result is that the average man is nearer twenty-three than twenty-two when he receives his bachelor's degree in arts from our oldest universities.

Can it be that the American people will endure the postponement for their sons of the definite work of life, which follows if they cannot so much as to enter on the practice of a profession before the age of twenty-five or twenty-six?

I believe that public sentiment justifies and will soon insist on a reduction either of the time now asked from the average student for the college course, or of that demanded by the preparatory school. Each of these institutions has been pushed into a position which does not belong to it. The preparatory school should not be occupying the place formerly accorded to Freshman year at college. The college Senior should not be occupying the place formerly accorded to the resident graduate.

To restore each to its old position would probably be the best solution of the problem. It would serve also to relieve our system of public education from an unnecessary strain. Is it wise, the taxpayer and the sociologist may agree in asking, to offer at the high school the first quarter of a collegiate education to those who for the most part will go no farther? Will it make the boy a better clerk, or tradesman, mechanic or farmer,—more contented with his life and more able to make the most of it? Or may he find in aspirations awakened only to be unsatisfied, in questions suggested without an answer, and doubts raised which only a fuller training can lay to rest, that “a little learning is a dangerous thing?”

But there are great difficulties in the way of any reduction of the high school course. It is impossible unless the college yields something, and the college is more likely to yield at the end than at the beginning of its term of study.

It can, with no serious break or surrender of ground, dedicate Senior year to graduate work. It can allow its Seniors to elect the first year's studies at a Law School, in lieu of those of a more strictly academic character. It can, in effect, or it can in form, reduce its required years of residence from four to three. It is done already in our leading institutions, by such means of indirection as granting leave of absence to meritorious students for Senior year, or allowing them to take the degrees of B.A. and M.A. at the same Commencement, or counting their College instruction in law, history, logic, and political science, as equivalent to the first year in a Law School or as justifying permission to complete, if they can, the three years' law course in two years time.

But these devices are for the benefit of the man of exceptional ability. The welfare of the average man is far more important. The brilliant scholar might wait till twenty-six or twenty-seven, before beginning his professional career, with some hope of bounding at once into a practice that would be the just reward of superior talents. It is the ordinary man, whom waiting kills. It is the ordinary man for whose benefit systems of education should be framed. It is his plea that I have sought to put before you to-day.